REMARKS

This application has been reviewed in light of the Office Action dated April 7, 2005. Claims 1-33 are pending in the application. Claim 1 has been amended. Claims 18-33 have been added. The specification has been amended in the section entitled "Cross-Reference to Related Applications." Applicants submit that no new matter or issues have been introduced.

Claims 1-17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over USPN 5,868,779 to Ruiz in view of USPN 5,647,848 to Jorgensen. Applicant respectfully traverses this rejection.

Initially, it does not appear that Ruiz qualifies as prior art to the present application because the claims are entitled to at least the filing date of June 12, 1997. Specifically, support for the claims can be found in U.S. Application No. 08/873,413, having a filing date of June 12, 1997, to which the present application is directly related, as reflected in the filing receipt, a copy of which is attached. The earliest priority date for Ruiz is the filing date of August 15, 1997, which is after June 12, 1997. Therefore, Ruiz is not prior art to the present application under 35 U.S.C. §102(e).

Because Ruiz is not prior art to the present application, the proposed combination of Ruiz in view of Jorgensen is inappropriate under 35 U.S.C. §103. Accordingly, claims 1-33 are patentable.

Assuming, *arguendo*, that Ruiz could be viewed as prior art, the proposed combination of Ruiz and Jorgensen fails to teach or suggest all of the claimed features that would render the claims obvious as set forth in MPEP 2143.03 (MPEP 8th Ed., Rev. 2, May 2004). That is, to establish a *prima facie* case of obviousness of a claimed invention, all of the claimed limitations must be taught or suggested by the prior art. The relied upon combination of references fails to teach or suggest all of the claimed features, including at least two features recited in the claims: (1) a binding layer as recited in amended claim 1; and (2) an interior surface area that remains "substantially unchanged when the balloon changes from a deflated to an inflated state."

Amended claim 1 recites a balloon that includes, *inter alia*, "a binding layer that secures the first fiber layer to the second fiber layer so that the first and second fiber layers are restricted from substantial relative movement during inflation and deflation." Support for amended claim 1 is provided in the originally filed application at, for example, paragraphs [0017] and [0018].

First, Ruiz and Jorgensen fail to show or describe the feature of "a binding layer that secures the first fiber layer to the second fiber layer so that the first and second fiber layers are restricted from substantial relative movement during inflation and deflation." As stated by Ruiz at column 5, lines 22-34, the balloon element 12 is permitted to expand against expandable mesh 14 due to the sliding actions of the strands (col. 5: 5-11). Hence, Ruiz fails to show or describe the claimed feature of the binding layer, as recited in amended claim 1. Jorgensen fails to cure at least this deficiency of Ruiz because Jorgensen states, at col. 3, lines 63-65, that the fibers have the ability "to reorient themselves with respect to one another ...." Thus, Ruiz in view of Jorgensen fails to teach or suggest the all of the claimed features of claim 1. Accordingly, claim 1 is patentable over Ruiz in view of Jorgensen for at least this reason.

Second, the primary reference to Ruiz shows and describes a balloon with a first profile in a deflated state and a second profile, as shown in Figure 3, in an inflated state. The second profile is much greater than the first profile. It is apparent that the interior surface area of balloon element 12 of Ruiz changes from a smaller diameter when deflated (Fig. 1) to a larger diameter (and therefore greater interior surface area) when inflated (Fig. 3) to a constrained diameter provided by mesh 14 because of the ability of the strands of the mesh 14 to slide over one another (col. 5:7-9). Thus, Ruiz fails to show or describe the feature of a substantially constant interior surface area recited in claim 1. The secondary reference to Jorgensen fails to cure at least this deficiency of Ruiz. Specifically, Jorgensen shows and describes a first profile in a uninflated state (D_{defL}) and a second profile (D_{InfL}) greater than the first profile due to the ability of the fibers "to reorient themselves ...," as discussed above. In other words, the changes in diameter shown and described by Jorgensen necessarily result in a change of the interior surface area because the surface area is related to the diameter of the balloon, given that Jorgensen shows a constant length of the balloon when inflated or deflated. Because Jorgensen fails to cure the deficiencies of Ruiz, the proposed

combination of Ruiz in view of Jorgensen fails to show or describe the claimed feature of an interior surface area of the balloon that remains "substantially unchanged when the balloon changes from a deflated to an inflated state." Consequently, the proposed combination of references fails to teach or suggest all of the claimed features. Accordingly, claim 1 is patentable over the proposed combination of references as a whole for at least this reason.

Claims 2-17 are also patentable over the proposed combination because these claims depend from claim 1, as well as for reciting other features not shown or described in the relied-upon prior art.

With respect to new claims 18-33, applicant respectfully submits that the neither Ruiz nor Jorgensen, either alone or in combination, disclose, teach or suggest the claimed invention as a whole for the reasons set forth above. More specifically, Ruiz and Jorgensen fail to show or describe the feature recited in claim 18 of "a film that secures the first fiber to the second fiber so that the first and second fiber are restricted from substantial relative movement during inflation and deflation," support for which can be found throughout the specification and drawings. Moreover, Ruiz and Jorgensen fail to show or describe the feature recited in claim 18 of "a first fiber having fibers positioned in parallel relation to a longitudinal axis of the balloon." Accordingly, for at least these reasons, claim 18 appears to be patentable over the proposed combination of references as a whole. Claims 19-33 are also patentable over the proposed combination because these claims depend from claim 18, as well as for reciting other features not shown or described in the relied-upon prior art.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 297912006401. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: August 8, 2005

Respectfully submitted,

By _____

Todd W. Wight
Registration No.: 45,218
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, CA 90013-1024
(949) 251-7189